

RECEIVED  
CENTRAL FAX CENTER

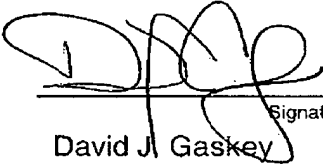
JAN 23 2008

Doc Code: AP.PRE.REQ

PTO/SB/33 (07-05)

Approved for use through xx/xx/200x. OMB 0651-00xx  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional)	
		60469-194; PA000.05025-US	
<b>CERTIFICATE OF FACSIMILE</b> I hereby certify that this Pre-Appeal Brief Request For Review and Notice of Appeal are being facsimile transmitted to (571) 273-8300. on <u>1-23-08</u> Signature <u>Theresa M. Palmateer</u> Typed or printed name <u>Theresa M. Palmateer</u>		Application Number <u>10/522,191</u>	Filed <u>01/25/2005</u>
		First Named Inventor <u>Hugh James O'Donnell</u>	
		Art Unit <u>1794</u>	Examiner <u>Gray, Jill M.</u>
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.			
This request is being filed with a notice of appeal.			
The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) <input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>37,139</u> <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____		 Signature <u>David J. Gaskey</u> Typed or printed name <u>(248) 988-8360</u> Telephone number <u>1-28-08</u> Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.			
<input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

RECEIVED  
CENTRAL FAX CENTER

JAN 23 2008

60,469-194  
PA-000.05025-US**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Hugh James O'Donnell  
Serial Number: 10/522,191  
Filed: 01/25/2005  
Group Art Unit: 1794  
Examiner: Gray, Jill M.  
Title: ELEVATOR BELT ASSEMBLY WITH  
PRESTRETCHED SYNTHETIC CORDS

**REQUEST FOR PRE-APPEAL BRIEF REVIEW**

Mail Stop AF  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

This paper is responsive to the Final Office Action mailed on December 14, 2007.

Applicant hereby requests Pre-Appeal Brief Review because there is no *prima facie* case of anticipation or obviousness against any of Applicant's claims.

**The rejection of claims 1, 5, 7-8 and 10**  
**under 35 U.S.C. §102(e) as being anticipated**  
**by U.S. 2003/0092524 (the Baranda, et al. reference)**  
**must be withdrawn**

Applicant's claim 1 is reproduced for convenience:

1. A method of making an elevator belt assembly having a plurality of cords within a jacket, comprising the steps of:
  - (a) aligning the plurality of cords in a selected arrangement;
  - (b) tensioning the cords a selected amount to stretch the cords; and
  - (c) applying a selected jacket material to the cords to encase the cords in the jacket so that the cords remain stretched within the jacket.

60,469-194  
PA-000.05025-US

Importantly, the second step of claim 1 includes stretching the cords. Merely applying tension to a cord is not sufficient to stretch the cord. Tension must be applied at a sufficiently high level to stretch or elongate the cords according to Applicant's invention. There is no *prima facie* case of anticipation because the *Baranda, et al.* reference is silent regarding any stretching of the cords in that reference.

The *Baranda, et al.* reference teaches applying tension to the cords in a manner that controls the spacing of the cords from the exterior surface of the jacket that encases the cords in that reference. It is noteworthy that the *Baranda, et al.* reference is directed to a technique of making an elevator belt assembly that does not rely upon cord supports during the manufacturing process to avoid forming grooves in the exterior of the jacket. Instead of supporting the cords with a physical structure underneath the cords during a jacket application process, the *Baranda, et al.* reference teaches controlling tension on the cords to keep them straight enough to achieve a desired alignment within the jacket.

Keeping a cord straight is not the same thing as stretching the cord as Applicant is claiming stretching cords. For example, holding two ends of a cord without tension would allow the cord to sag in the middle between the two ends. Applying some tension would eventually raise the lowest point of that sag until the cords were held straight between the two ends. A sufficient amount of tension to hold the cords straight in that manner would not necessarily stretch the cords. There is nothing in the *Baranda, et al.* reference that in any way indicates that any of the tensions applied in that reference would cause the cords to be stretched. Tensioning the cords for maintaining them in a straight or desired alignment during a belt manufacturing process is not the same as and does not in any way suggest stretching the cords during a belt making process.

60,469-194  
PA-000.05025-US

The term "stretching" should be interpreted within Applicant's claims in view of Applicant's disclosure. For example, page 6, lines 6-20, describes applying a load that "exceeds the anticipated loads when the belt assembly is placed in service in an elevator system." One example load used for prestretching cords according to Applicant's disclosure is "at least approximately 10% of the breaking strength of the cords." It is also worth noting that the prestretching of Applicant's disclosed example results in a belt having little or no elastic stretch during elevator system operation.

The only mentioned tension in the *Baranda, et al.* reference, by contrast, is 50 Newtons (e.g., 50 Kg/s<sup>2</sup>). If an elevator belt would stretch when subjected to a 50 Kg load (e.g., about 100 pounds), then that belt could not reasonably be expected to support the substantially greater weight of an elevator car, counterweight and multiple passengers in an acceptable manner. It follows that the tension applied in the *Baranda, et al.* reference does not rise anywhere near the level of a tension to prestretch a cord as claimed by Applicant. In other words, it is not a reasonable interpretation of the tension in the *Baranda, et al.* reference as stretching the cords.

Without an express teaching in the *Baranda, et al.* reference that the cords are stretched, there is no *prima facie* case of anticipation. It cannot be said that the *Baranda, et al.* reference inherently teaches stretching because the only example tension mentioned in that reference is insufficient to stretch a cord that would need to be used in an elevator belt assembly.

60,469-194  
PA-000.05025-US

**The rejection of claims 7-10 under 35 U.S.C. §102(b)**  
**is being anticipated by the PCT Patent Publication WO 01/14630**  
**(the *Prewo* reference) must be withdrawn**

There is no *prima facie* case of anticipation. Applicant's claim 7 is reproduced here for convenience.

7. An elevator belt assembly, comprising:  
a plurality of cords that are stretched; and  
a jacket over the stretched cords that keeps the cords stretched the desired amount without any external load applied to the belt assembly.

Claim 7 recites that the cords are stretched and that the jacket over the stretched cords keeps the cords stretched without any external load applied to the belt assembly. The *Prewo* reference is silent regarding any stretching of the cords within the jacket of that reference. The only arguable reference to how the cords of the *Prewo* reference are stretched is when the reference discusses how a steel cord may break before a synthetic cord. That would only happen in the context of use of the elevator system and would require that the jacket would be stretched along with the cords if they were stretched while in use because the cords are fixed within the jacket. In other words, the only possible mentioning of anything in the *Prewo* reference that relates to stretching of the cords is related to breaking of the cords during use in an elevator system. It is not possible for the jacket of the *Prewo* reference to keep the cords stretched without any external load applied to the belt assembly. The only stretching (if any) mentioned in the *Prewo* reference occurs as a result of an external load (e.g., the elevator) being applied to the belt of the *Prewo* reference.

60,469-194  
PA-000.05025-US

It is impossible to find any mention of a relationship between the cords and jacket in the *Prewo* reference that corresponds to having the cords stretched and the jacket keeping the cords stretched without any external load applied to the belt assembly within the *Prewo* reference. Therefore, there is no *prima facie* case of anticipation.

**The rejection of claims 2-4, 6, 9 and 11-12  
under 11 U.S.C. §103 based upon the *Prewo* reference  
must be withdrawn**

As described above, the *Prewo* reference does not provide any indication of any tension on the cords to stretch the cords combined with applying a jacket material to the cords so that they remain stretched within the jacket. There is nothing within the *Prewo* reference regarding tensioning the cords at all. Therefore, it is impossible to make the leap to the techniques recited in claims 2-4 and 11-12. It is not possible to establish a *prima facie* case of obviousness based on the *Prewo* reference without using improper hindsight to somehow justify finding a reason to utilize particular tension loads to achieve something that the *Prewo* reference never discusses (e.g., prestretching cords and applying a jacket to them).

Regarding claims 6 and 9, even though the *Prewo* reference does mention synthetic cords, the stretched aspect of the cords in Applicant's claims is nowhere found in the *Prewo* reference and there is no reason (absent Applicant's own disclosure) to assume in any way that prestretching cords would somehow be useful in the *Prewo* reference. There is no *prima facie* case of obviousness.

While claims 13 and 14 are not specifically discussed in the Office Action, Applicant respectfully submits that none of the grounds of rejection applied to the other claims would

60,469-194  
PA-000.05025-US

establish a *prima facie* case of anticipation or obviousness against either of claims 13 or 14. All claim are allowable.

Respectfully submitted,

CARLSON, GASKEY & OLDS

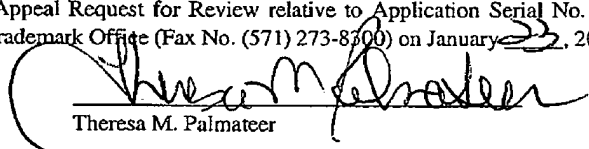
By: 

David J. Gaskoy, Reg. No. 37,139  
400 W. Maple Rd., Ste. 350  
Birmingham, MI 48009  
(248) 988-8360

Dated: January 23, 2008

**CERTIFICATE OF FACSIMILE**

I hereby certify that this Pre-Appeal Request for Review relative to Application Serial No. 10/522,191, is being facsimile transmitted to the Patent and Trademark Office (Fax No. (571) 273-8300) on January 23, 2008

  
Theresa M. Palmateer

N:\Clients\OTIS ELEVATOR\IP00194\PATENT\Pre-Appeal Request for Review.doc